

FILED - GR

February 6, 2023 2:15 PM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY:JMW SCANNED BY: KB/2/6UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**PETITION UNDER 28 USC § 2254
FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

<u>GERALD LEE HUDSON Jr.</u> Name of Petitioner (include name under which convicted)	<div style="border: 1px solid black; padding: 10px; text-align: center;"> 1:23-cv-141 Ray Kent U.S. Magistrate Judge </div>
v.	
<u>SHERIFF STEVEN KEMPKER</u> Name of Respondent (authorized person having custody)	
Prisoner No.: _____ Place of Confinement: <u>OTTAWA COUNTY JAIL</u>	

PETITION
(Print Clearly)

- (a) Name and location of court that entered the judgment of conviction you are challenging: _____
58TH JUDICIAL DISTRICT 3100 PORT SHELDON, HUDSONVILLE MI
(b) Criminal docket or case number: HU-22-096479-FY
- Date of judgment of conviction: 12-20-2022
- Identify all counts and crimes for which you were convicted and sentenced in this case: _____
Aggravated assault
- Length of sentence for each count or crime for which you were convicted in this case: _____
one year
- What was your plea?

Not guilty ☐
Guilty ☐
Nolo contendere (no contest) ☒
- If you went to trial, what kind of trial did you have? (Check one)

Jury ☐
Judge only ☐

7. Did you testify at the trial? Yes ☐ No ☒
8. Did you file a direct appeal to the Michigan Court of Appeals from the judgment of conviction? Yes ☐ No ☐
9. If you did appeal, answer the following:

- (a) Date you filed: _____
- (b) Docket or case number: _____
- (c) Result: _____
- (d) Date of result: _____
- (e) Grounds raised: _____
- _____
- _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

- (f) Did you seek further review of the decision on appeal by the Michigan Supreme Court? Yes ☐ No ☒

If yes, answer the following:

- (1) Date you filed: _____
- (2) Docket or case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Grounds raised: _____
- _____
- _____
- _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

- Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If yes, answer the following:

- (1) Date you filed: _____
- (2) Docket or case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Grounds raised: _____

10. Did you file a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules with respect to the judgment of conviction and sentence? Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Date you filed: _____

(2) Name of court: _____

(3) Docket or case number: _____

(4) Grounds raised: _____

(5) Did you receive a hearing where evidence was given on your motion? Yes ☐ No ☐

(6) Result: _____

(7) Date of result: _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(b) If you sought further review of the decision in the Michigan Court of Appeals, please answer the following:

(1) Date you filed: _____

(2) Docket or case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Grounds raised: _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(c) If you sought further review of the decision in the Michigan Supreme Court, please answer the following:

- (1) Date you filed: _____
- (2) Docket or case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Grounds raised: _____
- _____
- _____
- _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

12. Other than a direct appeal or a motion for relief from judgment, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes ☒ No ☐
13. If your answer to 12 was "yes," give the following information: [Attach additional sheets of paper, if necessary, to answer the following for each petition, application, or motion you filed.]

- (a) (1) Date you filed: 11/6/2022 12/21/2022 12/30/2022
- (2) Name of court: 58 Judicial District
- (3) Docket or case number: HU-22-096479-FY
- (4) Nature of proceeding: Jurisdiction challenge plea rescission
- (5) Grounds raised: Jurisdiction challenge went unlawfully unanswered.
- _____
- _____
- (6) Did you receive a hearing where evidence was given on your motion? Yes ☒ No ☐
- (7) Result: Jurisdiction issue was never resolved
- (8) Date of result: 12/20/2022

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

- (b) Did you appeal to the highest court having jurisdiction the result of action taken on any petition, application, or motion? Yes ☒ No ☐

If yes, please provide the following:

- (1) Date you filed: 12-6-2022
- (2) Name of court: 58 Judicial DISTRICT
- (3) Result: State remained moot on Subject Matter
- (4) Date of result and case number: 12-12-2022
- (5) Grounds raised: jurisdictional challenge went
unlawfully unanswered

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

- (c) If you did *not* appeal from the adverse action on any petition, application, or motion, explain briefly why you did not:

I was immediately incarcerated and lacked
effective assistance of counsel and proper
law library

14. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Court Lacks both personam and Subject
matter jurisdiction.

- (a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): _____

challenges were never answered they
were unlawfully ignored making Prosecution
highly Prejudicial. A Void judgment should
should be rendered do to the the trespass
by the prosecution and court.

(b) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: Prejudice of Court.

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Date motion was filed: _____

Name and location of the court where the motion was filed: _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available): _____

Date of result: _____

(3) Did you receive a hearing on your motion? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion? Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: _____

Name and location of court: _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available): _____

Date of result: _____

(d) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.)

that you have used to raise Ground One in the state courts: Petitioned the Court
with no answer

(e) If you did not raise Ground One in the trial court **AND** the Michigan Court of Appeals **AND** the Michigan

Supreme Court, explain why: my action were forced from
having a lawful hearing challenging
Jurisdiction Leaving me no State remedy.

GROUND TWO: Lack of due process of law
under the fourth amendment.

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): _____

The court violated it's own rules and
the constitution to by pass due process.
A void judgment should be rendered due
to unanswered substantial due process
violations by prosecution and court.

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Date motion was filed: _____

Name and location of the court where the motion was filed: _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available): _____

Date of result: _____

(3) Did you receive a hearing on your motion? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion? Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: _____

Name and location of court: _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available): _____

Date of result: _____

(d) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.)

that you have used to raise Ground Two in the state courts: Constitution was

violated and due process was ignored.

(e) If you did not raise Ground Two in the trial court **AND** the Michigan Court of Appeals **AND** the Michigan

Supreme Court, explain why: Lack of effective and

trust worthy court appointed counsel.

GROUND THREE: Lack of verified and authenticated Complaint,
Warrant, proof of service, Claim sworn to under penalty of perjury.

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): _____

Warrant issued was defective, unlawful creating
Fraud and deception under color of law violating
proper and lawful procedure. A Void must be
rendered due to the Accused inability to
mount a lawful and just defense.

(b) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

Inmate Name: Gerald Hudson Jr
Inmate ID # 1081041 Location B5
Ottawa County Jail
12130 Fillmore St.
West Olive Mi. 49460
This Stamp identifies this correspondence as
Having been mailed by an Offender Incarcerated
At the above Institution:
" WARNING NOT RESPONSIBLE FOR CONTENTS"

GRAND RAPIDS MI 493

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THIS CORRESPONDENCE IS FROM
A PERSON INCARCERATED
AT THE OTTAWA COUNTY JAIL

Clerk, U.S. District Court
399 Federal Bldg.
110 Michigan St, NW
Grand Rapids, MI 49503

49503-236399

